

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into as of November 1, 1996 by and between SAPPHIRE BROADCASTING, INC., a Delaware corporation ("Seller"), and SUSQUEHANNA RADIO CORP., a Pennsylvania corporation ("Buyer").

### **WITNESSETH:**

WHEREAS, Seller is the licensee of, and owns and operates, AM Radio Station WHMA-AM and FM Radio Station WHMA-FM ("Stations"), which are currently licensed to Anniston, Alabama; and

WHEREAS, Seller desires to sell, assign, transfer and deliver, and Buyer desires to purchase, certain assets used or useful in the operation of the Stations under the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties, intending to be legally bound, hereby agree as follows:

### ARTICLE 1

#### TRANSFER OF ASSETS

1.1 Transfer of Assets. Upon the terms and subject to the conditions contained herein, on the Closing Date (as defined in Article 8), Seller shall transfer to Buyer, by instruments of transfer and conveyance reasonably acceptable to counsel for Buyer and counsel for Seller, and Buyer shall purchase from Seller, to the extent permitted by law, all of Seller's right, title and interest in the Assets (as defined below), free and clear of any and all liens, encumbrances, claims, charges or other liabilities except as otherwise stated herein. The term "Assets" shall mean all of the following property of Seller used or useful to the business or operation of the Stations:

2.3 Balance of Purchase Price. At the Closing, in addition to the Escrow Deposit to be delivered to Seller by the Escrow Agent pursuant to Section 2.2 hereof, Buyer shall deliver to Seller by wire transfer payable in immediately available funds the aggregate amount of Fourteen Million Three Hundred Thousand Dollars (\$14,300,000).

2.4 Additional Payment. In the event the Federal Communications Commission ("FCC") grants a Construction Permit ("CP") without any "material adverse conditions" (as hereinafter defined in this Section 2.4) to WHMA-FM for a location that will provide coverage substantially similar in population, square miles and location to that shown on Schedule 2.4, which CP grant has become a Final Order (as defined in Section 5.4(d)), Buyer will pay to Seller, upon program test authority or six (6) months from the date the CP grant has become a Final Order, whichever occurs sooner, an amount, in addition to the amount set forth in Section 2.1, as follows:

(a) If the CP is for a Class C-1 FM facility or greater the amount will be Twenty Million Dollars (\$20,000,000);

(b) If the CP is for a Class C-2 FM facility, the amount will be Thirteen Million Dollars (\$13,000,000);

(c) If the CP is for a Class C-3 facility or below, the amount will be Ten Million Dollars (\$10,000,000).

Additional consideration as set forth in a, b, or c above shall only be due and owing by Buyer to Seller if Buyer obtains the Final Order for a CP within six (6) years of the Closing Date. Buyer shall have the right to transfer or assign the Stations and to have such transferee or assignee assume the obligations set forth in this Section. If the FCC does not approve any relocation of WHMA-FM to a location meeting the criteria of this Section 2.4, no additional payment is due Seller.

affecting the enforcement of creditors' rights or remedies generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

3.3 Absence of Conflicts. Except as set forth on Schedule 3.2 or Schedule 3.9, the execution and delivery of, and the performance of its obligations under this Agreement by Seller and the consummation by Seller of the transactions contemplated hereby:

(a) Do not (with or without the giving of notice or the passage of time or both) violate or result in the creation of any lien on any of the Assets under any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Seller;

(b) Do not conflict or result in a breach or termination of, or constitute a default or give rise to a right of termination under Seller's articles of incorporation or pursuant to any material contract or other instrument to which Seller is a party or by which any of the Assets may be bound, or result in the creation of any lien upon any of the Assets.

3.4 Governmental Consents and Consents of Third Parties. Except for the required consent of the FCC with respect to the Licenses and as set forth on Schedule 3.4 or Schedule 1.1(d), the execution and delivery of, and the performance of Seller's obligations under this Agreement and Seller's consummation of the transactions contemplated hereby do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any court or public agency or other authority, or the consent of any person under any agreement, arrangement or commitment of any nature which Seller is a party to or bound by or which the Assets are bound by or subject to, the failure of which to obtain would have a material adverse effect on the operation of the Stations.

property licenses have been properly recorded in the appropriate public recording offices.

3.8 Contracts.

(a) With respect to the Contracts, Schedule 1.1(d) sets forth an accurate and complete list of all amendments, modifications and supplements thereto by which the Stations or the Assets are bound, except (A) each contract (including trade agreements) for the sale of time at the Stations, and (B) contracts which are cancelable by Seller or its assignee without breach or penalty on not more than sixty (60) days notice. Complete and correct copies of all of the written Contracts except for those in (A) above, including all amendments, modifications and supplements thereto, have been delivered to Buyer.

(b) To the best of Seller's knowledge, (i) each Contract is legal, valid and enforceable against Seller in accordance with its terms; (ii) neither Seller nor any other party thereto, is in material breach of or in material default under any Contract; and (iii) there has not occurred any event which, after the giving of notice or the lapse of time or both, would constitute a material default under or result in the material breach of any Contract.

(c) Schedule 1.1(d) indicates for each Contract listed thereon whether consent or approval by any party thereto is required thereunder for consummation of the transactions contemplated hereby.

3.9 Litigation, Environmental Compliance and Compliance with Law.

(a) Litigation. To the best of Seller's knowledge, except as described on Schedule 3.9, (i) there are no claims, investigations, actions, suits or administrative, arbitration or other proceedings pending or threatened against Seller which would, individually or in the aggregate if adversely determined, have a material adverse effect on the financial condition or the operation of the Stations or which would give any third party the right to enjoin the transactions contemplated by this Agreement, (ii) there is no basis for any claim, investigation, action, suit or

been set forth in this Agreement or any Schedule or certificate attached hereto which was prepared by Seller or delivered by Seller pursuant to this Agreement.

#### ARTICLE 4

##### BUYER'S REPRESENTATION AND WARRANTIES

Buyer hereby represents and warrants to Seller as follows:

4.1 Organization and Standing. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Pennsylvania and has full and complete authority to enter into and perform this Agreement. Buyer has the authority to own or lease its properties and to carry on its business as it is now being conducted and as it will be conducted at the Closing.

4.2 Authorization and Binding Effect of Agreement. Buyer's execution and delivery of, and the performance of its obligations under this Agreement and the consummation by Buyer of the transactions contemplated hereby, have been duly authorized and approved by all necessary corporate action on the part of Buyer. Buyer has the corporate power and corporate authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions hereby contemplated. This Agreement constitutes the legal, binding and valid obligation of Buyer enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights or remedies generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.3 Absence of Conflicts. Buyer's execution and delivery of, and the performance of its obligations under this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby:

(a) Do not (with or without the giving of notice or the passage of time or both) violate (or result in the creation of any claim, lien, charge or encumbrance on any of the assets or properties of Buyer under) any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Buyer in any manner which would have a material adverse effect on the assets, business, operation or financial condition or results of operations of Buyer, or on the ability of Buyer to fulfill its obligations under this Agreement and consummate the transactions contemplated by this Agreement;

(b) Do not (with or without the giving of notice or the passage of time or both) conflict with or result in a breach or termination of, or constitute a default or give rise to a right of termination or acceleration under the corporate charter or by-laws of Buyer or any agreement, commitment or other instrument which Buyer is a party to or bound by or by which any of its assets or properties may be bound.

4.4 Government Consents and Consents of Third Parties. Except for the required consent of the FCC and the consent of Buyer's lenders, Buyer's execution and delivery of, and performance of its obligations under this Agreement and the consummation by Buyer of the transactions contemplated hereby, do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration of filing with, any court or public agency or other authority, or the consent of any person under any agreement, arrangement or commitment of any nature to which Buyer is a party or by which it is bound.

4.5 Broker's or Finder's Fees. Other than Larry Patrick, no agent, broker, investment banker or other person or firm acting on behalf of or under the authority of Buyer or any affiliate of Buyer is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

of any party hereto to consummate the transactions contemplated by this Agreement, Buyer and Seller shall use its or their good faith efforts to cure the same as expeditiously as possible; and

(d) If the FCC Consent contains any materially adverse condition, the party upon which that condition is imposed shall use its best, diligent and good faith efforts to remove the same before the Closing Date; provided that, as to any such condition that is a condition to Seller's continued operation of the Stations, Seller shall use its commercially reasonable efforts to comply therewith.

The term "FCC Consent" shall mean an order issued by the FCC consenting to the acquisition by Buyer of the Station. The term "Final Order" shall mean an FCC order which is not reversed, stayed, enjoined, set aside, annulled or suspended and with respect to which no timely filed request for administrative or judicial review, reconsideration or stay is pending, and as to which the time for filing any such request, or for the FCC to set aside its order on its own motion, has expired.

5.5 Further Assistance. After the Closing of this Agreement, Buyer and Seller shall take such actions and properly execute and deliver such further instruments as, in the reasonable opinion of counsel for Buyer or Seller, as the case may be, may be necessary or desirable to assure, complete and evidence the transactions provided for in this Agreement.

## ARTICLE 6

### CONDITIONS PRECEDENT TO BUYER'S OBLIGATION

The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to satisfaction, on or before the Closing Date, of each of the following conditions, any or all of which Buyer shall have the right to waive at its sole option and risk:

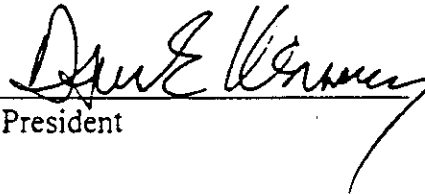
6.1 Representations and Warranties True. All representations and warranties of Seller shall be true and correct in all material respects on and as of the Closing Date.

15.13 Counterparts. This Agreement may be executed in any number of counterparts, and by either party on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

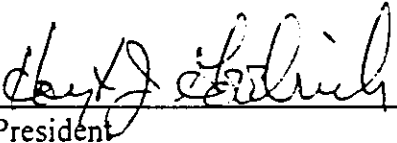
15.14 Schedules and Exhibits: Recording. Unless otherwise specified herein, each Schedule and Exhibit referred to in this Agreement is attached hereto, and each such Schedule and Exhibit is hereby incorporated by reference and made a part hereof as if fully set forth herein. To the extent permitted by the FCC, the Schedules shall not be filed with the FCC or otherwise disclosed or made public.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed as of the date first written above.

SUSQUEHANNA RADIO CORP.

By:   
President

SAPPHIRE BROADCASTING, INC.

By:   
President

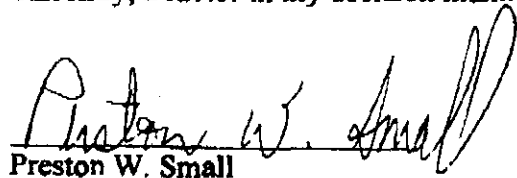


## CERTIFICATION

I hereby certify under penalty of perjury that I have reviewed the forgoing *Petition for Reconsideration and Second Motion to Reopen the Record* and that the facts stated therein are true and correct to the best of my knowledge, information, and belief. Specifically, during the April-June 2002 time period I was contacted several times by Thomas Gammon who indicated that he was working on behalf of Hoyt Goodrich and Sapphire Broadcasting, Inc. to get a \$10 million payment made by WNNX License Investment Company to Hoyt Goodrich and Sapphire Broadcasting, Inc. Mr Gammon also advised me that he hoped to recoup some money he lost as a result of the Commission's 1991 decision denying his attempt to move Station WHMA to the Atlanta area.

Mr. Gammon advised me that his contacts in the Commissioners' offices had advised him that a decision would be issued by July 2002. Mr. Gammon then warned me that if I continued to litigate the rulemaking proceeding that Hoyt Goodrich and Sapphire Broadcasting, Inc. would sue me for \$10 million. Mr. Gammon explained that Hoyt Goodrich and Sapphire Broadcasting, Inc. need the orders in the instant proceeding to become final before that payment becomes due and payable and that my filing of litigation papers with the Commission was preventing that eventuality from occurring. When I mentioned that I have no contractual relationship with Hoyt Goodrich or Sapphire Broadcasting, Inc. Mr. Gammon responded that Hoyt Goodrich feels like he is being backed into a corner and that he would file suit even, if there were no grounds to do so, in an effort to keep me from litigating the rulemaking proceeding further. My counsel, Mr. Welch, advised me over that same April-June time period that Mr. Gammon had made similar and repeated threats of civil action to him if I continued to litigate my position.

During the course of this proceeding I have not acted with a conscious awareness of the time line disclosed by Mr. Gammon, a time line which apparently constrains Hoyt Goodrich and Sapphire Broadcasting, Inc., I do not recall that I was ever aware of any such time line, and I have not filed a single paper in this rulemaking proceeding with the intent of harming or delaying any party. My goal throughout this proceeding, starting from the time that I assumed the role as the first filed proponent in this proceeding, an event which occurred months before WNNX filed its competing rulemaking petition, has been to improve my station. If my goal to improve my station conflicts with some non-parties' contractual expectations of a back end payment from WNNX, that conflict never was, and is not currently, a factor in my decision making process.

  
Preston W. Small

August 18, 2002

## CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of August 2002 served a copy of the foregoing PETITION FOR RECONSIDERATION AND SECOND MOTION TO REOPEN THE RECORD by First-Class United States mail, postage prepaid, upon the following:

Mark N. Lipp  
Shook, Hardy and Bacon  
600 14<sup>th</sup> Street, N.W. Suite 800  
Washington, D.C. 20005-2004

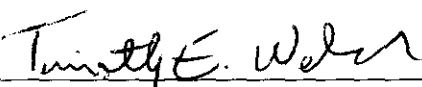
Kathy Archer, Vice President  
CapStar Broadcasting Partners  
600 Congress Avenue #1400  
Austin, TX 78701

Joan Reynolds  
Brantley Broadcast Associates  
415 North College Street  
Greenville, AL 36037

James R. Bayes  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Kevin F. Reed  
Dow Lohnes & Albertson PLLC  
1200 New Hampshire Ave., N.W. #800  
Washington, D.C. 20036

Erwin G. Krasnow  
Verner Liipfert Bernhard McPherson and Hand  
901 15<sup>th</sup> Street, N.W.  
Washington, D.C. 20005

  
Timothy E. Welch